

REPORT OF THE INTER-AGENCY COMMITTEE ON LOW-LEVEL RADIOACTIVE WASTE

TO THE

GENERAL ASSEMBLY

APRIL 1, 1988

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April 1, 1988

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Inter-Agency Committee on Low-Level Radioactive Waste herewith reports to the 1987 General Assembly (1988 Session) on the matter of low-level radioactive waste management in North Carolina. The report is made pursuant to Chapter 850 of the 1987 General Assembly Session Laws.

Respectfully submitted,

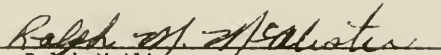

Ralph McAlister
Chairman
Inter-Agency Committee

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INTRODUCTION

The Inter-Agency Committee (IAC) on Low-Level Radioactive Waste, established by Section 23 of Chapter 850 (North Carolina Low-Level Radioactive Waste Management Authority of 1987) of the 1987 General Assembly, was created to assist the Low-Level Radioactive Waste Management Authority (LLRWMA) in the performance of its responsibilities, i.e., in the establishment of a low-level radioactive waste management facility in North Carolina, and to advise the General Assembly. The Committee is chaired by the Chairman of the Governor's Waste Management Board (GWMB) and has a total of nine members, three each from the GWMB, the Radiation Protection Commission, and the LLRWMA.

The Committee has the following mandated responsibilities:

- (1) determine the sequence of tasks required to be accomplished in order to site, design, construct, and place into operation a low-level radioactive waste disposal facility, determine the time likely to be required to accomplish those tasks, construct a timetable of task completion dates, and estimate the resources required to accomplish those tasks;
- (2) review and evaluate options with respect to policies, procedures, and rates of taxes, fees, penalties, and surcharges applicable to the management of low-level radioactive waste;
- (3) review and evaluate procedures in this and other jurisdictions relating to public participation and dispute resolution in connection with siting and management of low-level radioactive waste disposal facilities, including mediation, negotiation, and arbitration;
- (4) work cooperatively with any other group authorized by the General Assembly to study issues relating to low-level radioactive waste management and siting; and
- (5) recommend by written report to the General Assembly and its General Research Division, by 1 April 1988, those procedures and changes in the present law it may deem appropriate to expedite the resolution of issues regarding siting and management of low-level radioactive waste, including siting of low-level radioactive waste facilities, while effectively protecting the environment and safeguarding the public health.

As provided for in the Act, proposed legislation to implement the recommendations of the study (item 5, above) may be introduced and considered during the 1988 Regular Session of the 1987 General Assembly.

COMMITTEE PROCEEDINGS

The Committee met on the following dates: October 14, 1987, December 2, 1987, January 15, 1988, February 19, 1988, March 9, 1988, March 18, 1988 and March 23, 1988.

OCTOBER 14, 1987 MEETING

The Inter-Agency Committee on Low-Level Radioactive Waste, created by the 1987 Low-Level Radioactive Waste Management Authority Act, held its first meeting on October 14, 1987, in Room 113 of the Council Building, 701 Barbour Drive, Raleigh, NC.

The following members had been named to the Committee: by the Governor's Waste Management Board, Ralph McAlister, who will serve as chairman, Captain William Briner, who will serve as vice-chairman, and Wayne McDevitt; by the Low-Level Radioactive Waste Authority, John McAlister, Dr. Raymond L. Murray, and Dr. Constance Walker; and by the Radiation Protection Commission, Dr. James Watson, Dr. Robert Cockrell, and Dayne Brown. Dr. Linda W. Little was asked to staff the Committee. Members present for the initial meeting were Ralph McAlister, Captain William Briner, John McAlister, Dr. Raymond Murray, Dr. Constance Walker, Dr. James Watson, and Dayne Brown. All were asked to introduce themselves and give a brief summary of their background. Others present were: R. M. Fry, James P. Wilson, Elisabeth Chopinet, and George F. Givens. The meeting was staffed by Dr. Linda W. Little and Edgar M. Miller.

Chairman McAlister distributed copies of the Act creating the Committee and explained the Committee's charge to advise the General Assembly and to assist the Low-Level Radioactive Waste Authority in the siting and construction of a low-level radioactive waste disposal facility in North Carolina, to the end that an effective, efficient, and economical low-level radioactive waste management program may be established in the state. The Committee was created to establish an appropriate and formalized mechanism for coordinating three key players in the management of low-level radioactive waste in North Carolina: (1) the Governor's Waste Management Board (planning, coordination, public participation, (2) the Radiation Protection Commission (rule-making), and (3) Low-Level Radioactive Waste Management Authority (siting, construction, and operation of facilities).

The purpose of the meeting was to review the specific responsibilities of the Inter-Agency Committee. Legislative Research Counsel George F. Givens gave an in-depth review of Section 23 of the Act, which created the Committee. He noted that the intent of the legislature in drafting the Act was to deal fully with issues which would arise prior to the 1988 short session, while reserving the opportunity to come back in 1988 to modify those portions of the Act dealing with events which would occur after 1988.

The major function of the Inter-Agency Committee will be to identify areas of the Act in which amplification, adjustments, or fine-tuning are necessary. In particular, the Committee will need to identify and seek to remove any impediments to implementation of the Act. The Committee is to serve basically as a study committee and unlike its constituent groups it has

no regulatory, siting, or rule-making authority. It is to identify areas of the Act for which statutory changes or rule-making are required and to make recommendations to the General Assembly or to the appropriate rule-making body. As an interagency committee it is to act as a coordinator, seeking input from each of the constituent groups and trying to reach a consensus on recommendations before they are submitted for legislative action. The Inter-Agency Committee is also to take the responsibility for assessing what funds, budget requests, and coordinating mechanisms are needed in any agency of state government to implement the Act.

The Inter-Agency Committee is to have a report ready for the legislature in April, 1988, at which time it could sunset or be reaffirmed, depending on the desire of the legislature.

In summary the main role of the Inter-Agency Committee was to serve as the coordinating mechanism for the timely preparation of legislation in connection with the following issues set forth in HB 35 in Section 23:

- (1) milestones for completion of specific tasks of the Authority and resources needed to accomplish these tasks
- (2) options for taxes, fees, penalties, and surcharges
- (3) procedures for public participation and dispute resolution, including mediation, negotiation, arbitration, and incentives.

Mr. Givens stressed the need to see that funding requests are put into the appropriations process in a timely manner.

Edgar Miller of the Board's staff informed the group of the need for North Carolina to designate an official representative to the Low-Level Radioactive Waste Forum. After discussion, the Committee requested that Dr. Little continue as the official North Carolina contact until such time as an official representative is named.

Chairman McAlister asked that the agenda for the next meeting include reports from the Authority on its progress and from the Board's Public Information/Participation Committee and Legislative and Legal Issues Committee on development of procedures for negotiation, arbitration, and establishment of incentives.

DECEMBER 2, 1987 MEETING

The Inter-Agency Committee on Low-Level Radioactive Waste met December 2, 1987, at 1:30 p.m. in Room 113 of the Council Building, 701 Barbour Drive, Raleigh, N.C. Chairman Ralph McAlister presided. Members present were Captain William Briner, John McAlister, Dr. Raymond Murray, Dr. Constance Kalbach Walker, Dr. James Watson, Dr. Robert Cockrell, and Dayne Brown. Others in attendance were Ernest Phillips, Glenn Lassiter, Elizabeth Chopinet, Dr. Michael R. Overcash, Sallie Clotfelter, Ed Burt, George F. Givens, Paul Lawler, Mike Jones, Willie J. Lee, Lisa Finaldi, John Runkle, and Kay White.

MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE NORTH CAROLINA LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT AUTHORITY (LLRWMA) AND OTHER STATE AGENCIES

The major item of business was discussion of agreements which need to be reached between the LLRWMA and other state agencies. The statute creating the LLRWMA states that "The Authority may request information and assistance from any State agency which has data or expertise which would assist the Authority in the identification and characterization of sites for a low-level radioactive waste disposal facility, provided that no agency which has the authority to issue any license or permit required for the construction or operation of the facility shall participate in the site selection process in any way that would result in an actual or apparent conflict of interest." The Inter-Agency Committee (IAC) is working to develop guidelines which will define clearly to what extent the state agencies may interact with the Authority and provide assistance to the Authority without compromising their own specific roles. The IAC will also attempt to identify any areas that cannot be resolved by an MOA and which will need legislative action in the short session.

Draft language for portions of the MOA was distributed and discussed at length. These portions related to the introduction, the policy, the parties, and the purpose.

After discussion, the following were identified as parties which should be included:

- (1) North Carolina Low-Level Radioactive Waste Management Authority
- (2) Governor's Waste Management Board
- (3) Radiation Protection Section of the Department of Human Resources
- (4) Radiation Protection Commission
- (5) Land Resources Division of the Department of Natural Resources and Community Development
- (6) Solid & Hazardous Waste Management Branch of the Department of Human Resources.

The Solid & Hazardous Waste Management Branch was added because there could conceivably be a need for the proposed facility to have the capability to manage mixed wastes. Because of the number of potential parties, it was concluded that a single MOA among all parties would not be as workable as would a MOA with subdivisions constituting separate agreements between the Authority and each of the parties.

Potential areas called forth as needing consideration in establishment of the MOA were as follows:

- (1) rule-making
- (2) licensing and regulation
- (3) technology selection
- (4) site screening and selection
- (5) fees and taxes
- (6) preparation of the environmental impact statement
- (7) public participation/information
- (8) timing of review of various phases of the application
- (9) operator selection.

The question was raised as to whether the Radiation Protection Section (RPS) could assist the applicant (which could be the Authority) in the same manner as the federal Nuclear Regulatory Commission (NRC) staff works with applicants. The answer was "no," since at the federal level the decision on an application is not made by the NRC staff but by another group, the judges of the NRC Atomic Safety and Licensing Board Panel, who maintain strict separation from both the NRC staff and the applicant. At the State level, the RPS acts as the decision-maker.

The IAC discussed ways to maintain cooperation without going beyond propriety. It was noted by John Runkle that if the Board is perceived by the public as "too cozy" with the Authority, this could pose problems if the Board is called on to rule on preemption of local ordinances and license taxes. Not only could this result in public relations problems, but also in possibility of an overturn of a Board decision.

Committee members noted the importance of discussing the MOA process with representatives of the Office of the Secretary of the affected departments. Dr. Little noted that these departments were represented on the Governor's Waste Management Board, but that she would also personally contact them prior to the next IAC meeting.

For the next phase of development of the MOA, the Committee outlined the following procedure:

- (1) each member group is to draft language for an agreement between that group and the LLRWMA,
- (2) each is to seek legal assistance from the appropriate department to assure that the agreement is correctly stated,
- (3) the Land Resources Division of the Department of Natural Resources & Community Development and the Solid & Hazardous Waste Management Branch of the Department of Human Resources are to be notified and asked to participate,
- (4) each group is to submit its contribution to Board staff for consolidation into a single document.

It would be desirable for the Executive Branch to resolve as many conflicts as possible through the MOA process.

COMPREHENSIVE PLAN FOR LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT IN NORTH CAROLINA

The Committee discussed what entity now had the mandate to prepare the comprehensive plan for low-level radioactive waste management in North Carolina. The Waste Management Act of 1981 gave the Governor's Waste Management Board this responsibility, and the Board's Technical Committee on Low-Level Radioactive Waste has been working to develop the plan. In response to a question on the point, George F. Givens, Legislative Research Counsel, stated that the responsibility for planning given to the Authority in the 1987 legislation supersedes the responsibility assigned to the Board. At this time the Authority has the responsibility for actually continuing and completing the planning and the Governor's Waste Management Board has the responsibility to monitor the Authority's progress. Dr. Little noted that all of the

information developed by the Board is available for use by the Authority and that a substantial amount of such information had already been physically transferred to the Authority's office.

Dr. Murray commented that the Authority is indeed compiling a manual of policies and procedures and would welcome suggestions from the Board and other groups.

OTHER ITEMS

Dr. Little reported that the Public Information/Participation and Industrial Liaison Committees of the Governor's Waste Management Board were working on extensive public participation plans which would involve both the general public and industries and businesses in the state. She noted that the Board's Legislative and Legal Issues Committee was drafting rules for bringing the preemption process in line with the legislation passed in the 1987 session of the General Assembly.

Dr. Murray reported that the LLRWMA had sent out letters to get an indication of which companies would be interested in contracting for the site screening process and that the Authority's Technical Committee had drafted siting criteria rules which would be discussed by the Authority on December 7.

JANUARY 15, 1988 MEETING

The Inter-Agency Committee on Low-Level Radioactive Waste met January 15, 1988, at 10:00 a.m. in Room 113 of the Council Building, 701 Barbour Drive, Raleigh, N.C. Chairman Ralph McAlister presided. Members present were Captain William Briner, Dr. Raymond Murray, Dr. Constance Kalbach Walker, and Dayne Brown. Others in attendance were Elizabeth Chopinet, Jim Wilson, Ed Burt, George F. Givens, Mike Boyd, and Willie J. Lee.

MEMORANDA OF AGREEMENT (MOA) BETWEEN THE NORTH CAROLINA LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT AUTHORITY (LLRWMA) AND OTHER STATE AGENCIES

The major item of business was continuation of the discussion of agreements which need to be reached between the LLRWMA and other state agencies.

New draft language for portions of the MOA was distributed and discussed at length. These portions related to specific agreements between the Authority and

- (1) the Governor's Waste Management Board
- (2) the Radiation Protection Section of the Department of Human Resources
- (3) the Radiation Protection Commission, and
- (4) the Department of Natural Resources and Community Development.

Additional draft language is expected regarding the relationship between the Authority and the Solid Waste Management Section of the Department of Human Resources.

While much of the discussion of the draft language dealt with editing for clarity and accuracy, several substantive issues came up for discussion, debate, and resolution:

- (1) Roles of Governor's Waste Management Board and the Authority in developing public education programs -

Concern was expressed that the Board should remain neutral and not appear to be "cheerleader" or "defender" for the Authority or its positions since at some time the Board may be called upon to rule impartially on local ordinances and privilege taxes which could affect the Authority. On the other hand, the Authority will probably have the need to provide information to the public on its specific plans -- sites, technology, fee structure, and so on.

The Committee concluded that in accordance with its mandate the Board should continue to provide general information on low-level radioactive waste management to the public, that the Authority should develop its own public information program relative to its specific, project-oriented activities, and that as a courtesy each group should offer the other a chance to evaluate or critique its public education materials. Such review should not imply that either can veto the other's materials. The Inter-Agency Committee should be the forum for resolution of any disputes that might arise. The importance of the Board's maintaining its credibility as an outside review agency was stressed. In short, the Board's role is to promote the need for facilities, not to endorse or to overly criticize the Authority's activities and decisions. There should be no co-mingling of the Board and the Authority funds, but each should budget for its own public information funds.

- (2) Role of the Inter-Agency Committee -

It was agreed by the Committee that a major role of the Inter-Agency Committee was to identify as soon as possible potential conflicts of interest and conflicts of purpose and to resolve these to avoid the development of adversarial relationships among the different parties.

- (3) Access of contractors to state agencies -

The question arose as to whether the Authority's contractors could go directly to state agencies for information and assistance, or whether these contractors should go through the Authority. The answer was that, like any member of the public, for general information the contractors can go directly to the agency which might have that information. On the other hand, for seeking any information that would involve policy decisions, the contractor should work through the Authority. It was pointed out that the Authority should make this policy clear in its contracts.

(4) Budgeting -

The Committee discussed its role in recommending the budget for activities associated with siting a low-level radioactive waste disposal facility. The discussion arose because of the provision in HB 35 charging the Inter-Agency Committee with estimating the necessary resources. Legislative Counsel George F. Givens stated that each agency with responsibilities under the Low-Level Radioactive Waste Management Authority should go through regular budget request channels. He stressed the particular urgency of the Authority to prepare its budget requests and to get them moving through the appropriate channels in the Department of Administration. The role of the Inter-Agency Committee will be to prepare an integrated estimate of all the agency requests and to show the Legislature how the various requests fit together into an overall plan. The committee stressed the need for high level attention to this matter. The Committee also noted that plans should be underway to develop budget requests for the 1989-91 biennial budget, which will be crucial to the successful establishment of a facility by 1993.

OTHER MATTERS

The statutory seven-foot minimum separation between the bottom of a waste disposal facility and groundwater was discussed. Many consider this separation to be unduly restrictive and arbitrary and fear that it could lead to elimination of the best sites. The Committee agreed that any suggestion for more flexibility in this area should be accompanied by extensive technical documentation of the need for flexibility. [See also discussion of this issue in the report of the March 18, 1988 meeting.]

The question of how forests should be considered in proposed siting criteria was raised. Since a large area of the State is wooded, elimination of wooded areas for sites might greatly reduce the amount of land available for consideration.

FEBRUARY 19, 1988 MEETING

The Inter-Agency Committee on Low-Level Radioactive Waste met February 19, 1988, at 10 a.m. in Room 113, Council Building, Dorothea Dix Campus, Raleigh, N.C. Chairman Ralph McAlister presided. Members present were Captain William Briner, John McAlister, Dr. Raymond Murray, Dr. Constance Kalbach Walker, Dayne Brown, and Dr. James Watson. Others present included Donald Jacobs, John H. Brewer, R. M. Fry, Willie J. Lee, Andrew Sachs, Mary K. Paris, George F. Givens, and Mike Jones.

UPDATE ON LOW-LEVEL RADIOACTIVE WASTE ISSUES

Dr. Little reported to the Committee that several models for reorganization of environmental functions in state agencies were under discussion and that Governor Martin had proposed consolidation of public health, natural resources, and environmental protection programs into a new Department of Health and Environment. She stated that the model proposed by

Governor Martin, as well as the models proposed by the Department of Human Resources (DHR), did not affect the Radiation Protection Section (RPS), which would remain with the Division of Facility Services in DHR. However, she noted that the Legislative Study Committee on Consolidation of Environmental Agencies had expressed interest on several occasions in consolidating the RPS into an existing or new environmental agency.

Mike Jones of the Board's Legislative and Legal Issues Committee reported that the Committee had completed a redrafting of the rules for preemption of local ordinances dealing with low-level radioactive waste management facilities. This redrafting was necessary to conform the Board's rules with changes in the statutes in connection with HB 35, and the Committee also took advantage of the opportunity to redraft for improved clarity and guidance. The proposed draft rules were provided to the Board at its February 18 meeting, and copies were disseminated to the Technical Committee on Low-Level Radioactive Waste.

Mary Paris, the new executive director of the Low-Level Radioactive Waste Management Authority, was introduced by Dr. Murray. She briefed the Committee on her experience in working with nuclear issues in Illinois and New York.

MEMORANDA OF AGREEMENT (MOA)

The latest draft of the MOA document was distributed and carefully reviewed. After several minor changes, the Committee voted unanimously to recommend that the MOA be adopted by the various groups. The Radiation Protection Commission (RPC) will consider the MOA at its February 26 meeting and the Governor's Waste Management Board at its March 17 meeting. Dr. Little was asked to provide copies to the Department of Natural Resources and Community Development and DHR for their action.

REPORT OF INTER-AGENCY COMMITTEE TO THE GENERAL ASSEMBLY

It was noted that the Board's Legal Committee and the Authority were working on a list of needed modifications to the statutes. As provided for in HB 35, the Inter-Agency Committee (IAC) is to review any suggested modifications, to decide which are necessary, and to include recommendations in the IAC's report to the General Assembly due April 1, 1988. It was noted by George F. Givens, Legislative Research Counsel, that no changes should be proposed for consideration in the 1988 short session unless it could be documented that it was necessary that such changes be made prior to the 1989 session. The April 1 report is to be submitted to the General Assembly and its General Research Division.

The Committee noted that the major responsibility for recommending modifications to the statute would fall on the Authority, and the Authority's representatives were asked to take the lead in this.

The report is to address the points listed in Section 23b of Chapter 850 of the 1987 Session Laws.

In regard to scheduling of the specific tasks required in order to establish the facility timely, the Authority should take the lead in recommending any modifications.

On the question of fees, surcharges, and compensation to communities for the disposal facility, it was noted that the Joint Select Committee of the General Assembly will take the lead on this issue, to which the IAC can react. Since the Joint Select Committee has not yet met on this issue, the IAC may be unable to comment in the April 1, 1988 report. It was further pointed out that the amount of needed fees or surcharges could range greatly and would depend on whether the facility is a "North Carolina" facility or a compact facility.

For the short-term, the Committee noted that the statute appeared to be adequate in regard to the provisions for public participation. However, the IAC and its constituent members would like to continue to study this issue. The Governor's Waste Management Board is just beginning the drafting of rules relating to dispute resolution and at this time is not prepared to say whether or not any statutory changes are needed in this area. In any event, the rules would not be needed until the siting process is considerably further along, and any statutory changes could be addressed in the 1989 session.

In regard to cooperation among groups dealing with low-level radioactive waste, the Memoranda of Agreement are a major step in facilitating appropriate cooperation among state agencies and members of the constituent groups have also been readily available to report to the appropriate legislative committees.

Finally, in regard to the resources needed by state agencies in order to implement Chapter 850, the Committee engaged in extensive discussion of the responsibilities of each agency, when the resources to perform required tasks would be needed, and how the necessary budget requests would be developed and handled.

It was stressed that each agency has the responsibility for working through its usual budget channels to ensure that the 1988 expansion budget, the 1989-91 budget, and the 1991-93 budget reflect its needs.

The IAC is to compile all the budget requests for the 1988 expansion budget and show how each request fits into the overall program to implement Chapter 850. This is to go into the Report.

The Committee also noted that the Report should identify possible sources of funding, such as an application review fee or a license review fee.

The Committee briefly discussed financing proposals under study by the Authority, but concluded that this Committee is charged only with identifying costs to agencies implementing Chapter 850, not the actual costs of building the facility.

Each member group was asked to review Chapter 850, identify tasks it must accomplish before the 1989 session, determine whether any statutory changes are needed in the 1988 session, and bring this list to the next meeting.

OTHER MATTERS

Mr. Givens reported that the Legislative Study Committee on Low-Level Radioactive Waste will meet on March 2 to review progress toward implementation of HB 35. He asked that each group name representatives who could speak on the progress of that group.

MARCH 9, 1988 MEETING

The Inter-Agency Committee on Low-Level Radioactive Waste met March 9, 1988 at 10 a.m. in Room 201 of the Council Building, Dorothea Dix Campus, Raleigh, N.C. Chairman Ralph McAlister presided. Members present were Captain William Briner, John McAlister, Dr. Raymond Murray, Dr. Constance Kalbach Walker, Dr. James Watson, and Dayne Brown. Others present were Michael Boyd, Emily Andrews, Willie J. Lee, Lisa Finaldi, Victoria Voight, Mary Paris, and George Givens.

The purpose of the meeting was to discuss the content of the report to the General Assembly due April 1, 1988. In particular, the report will be presented to the Joint Select Committee and to the Legislative Research Commission's Committee on Low-Level Radioactive Waste Regulation.

Chairman McAlister stated that the report would include general recommendations, recommendations for changes in the present law, and budgetary recommendations, and he read the charge to the Committee as stated in the North Carolina Low-Level Radioactive Waste Management Authority Act of 1987 (Section 23 of Chapter 850, 1987 Session Laws).

The constituent groups of the Inter-Agency Committee each presented their recommendations, as did the Department of Natural Resources and Community Development.

RECOMMENDATIONS CONCERNING CHANGES TO THE ACT

On behalf of the Authority, Dr. Raymond Murray and Victoria Voight reported that the three representatives of the Authority had caucused with the Authority's staff and prepared a list of recommendations for changes in the present law, a draft of which was presented to the Inter-Agency Committee. These recommendations concerned the following:

- (1) proposed change in operator selection deadline from August 1, 1988 to January 31, 1989,
- (2) need for Authority to have fee-setting power for users of the disposal facility,
- (3) minor typographical corrections, and
- (4) need for Inter-Agency Committee to continue beyond the present fiscal year.

On behalf of the Radiation Protection Commission, Dayne Brown submitted two recommendations for changes to the present law. These concerned

- (1) the establishment of annual fees for users of low-level radioactive waste facilities, and
- (2) authorization for the Department of Human Resources to charge and collect reasonable fees to administer the licensing of the low-level radioactive waste disposal facility and the site access licensing program mandated in the Act.

On behalf of the Governor's Waste Management Board, Dr. Little reported that the Board favored the continuation of the Inter-Agency Committee beyond the current year. She also reported that the Board's Legislative and Legal Issues Committee had analyzed the statutes regarding the procedure for preemption of local ordinances and found a basic problem in that while the preemption procedure deals with whether or not a local ordinance should be preempted, the result of the procedure is the approval or disapproval of the establishment of a specific facility. It would seem more logical that the result would be a determination whether or to what extent to preempt the local ordinance. This problem is common to the Waste Management Act of 1981, the Hazardous Waste Treatment Commission Act of 1984, and to the North Carolina Low-Level Radioactive Waste Management Authority Act of 1987. However, it was pointed out that any changes to the statute could wait until the 1989 Regular Session, since the Authority will not choose a site before late 1989.

She also noted that the Board would reserve until another time any consideration of whether changes were needed in G.S. 104G-21 (negotiation and arbitration). Since negotiation and arbitration procedures cannot be needed before late 1989, the Board and its Legislative and Legal Issues Committee prefer to address rule-making in a careful and deliberate fashion with substantial opportunity for public input. The Board will not seek statutory changes unless there is a clear need to do so. The present statute may well be adequate. If it is determined that there are any flaws in G.S. 104G-21, the Board can seek a remedy in the 1989 Session. The report should reference this position.

The Inter-Agency Committee fully discussed the issues raised by each group and following each group's presentation adopted unanimously the recommendations as modified by discussion and instructed staff to draft a report incorporating these recommendations.

BUDGETARY ISSUES

It was reiterated that each affected department, board, commission, or authority must work through its usual budgetary channels to ensure that its budget needs are reflected in the Governor's budget and that the role of the Inter-Agency Committee was to compile into a single document all of the budgetary needs so that the legislators could see in one place the overall budget and the component parts for implementation of the Act. The Inter-Agency Committee's function is not to approve or disapprove of the individual budget requests but to ensure that all the costs are identified, that they are presented clearly and justified, and that there are no gaps or overlaps in the implementation of the tasks outlined in the Act.

The Act clearly requires that the costs of implementing the Act be recouped through fees charged to the eventual users of the disposal facility. The Inter-Agency Committee discussed at length the need to develop a coordinated and consistent policy for accounting for, documenting, and recovering costs. It was concluded that this was a proper task for the Inter-Agency Committee to facilitate, since there is no other body which has the requisite broad representation across agencies.

In further discussion of this issue, it was pointed out that since all costs will eventually be reflected in fees charged to users and will be subject to close scrutiny, care should be taken to justify the costs so that the fees will not be regarded as unnecessarily high. The need to follow standard accounting practices and to prioritize scarce resources was stressed. Since the bulk of the expenditures will be by the Authority, it is especially important that the Authority develop sound budgeting and accounting procedures.

In regard to the report to the legislature on budgetary needs, it was noted that the appendix should include full information by line-item and that for any additional personnel requested there should be notation as to whether they would be consultants, temporary employees, or permanent employees. Resources (such as personnel, space, and equipment) which will be used in part by the Authority should be apportioned on a pro rate basis.

Turning to specific budget requests, the Department of Natural Resources and Community Development's budget was distributed and discussed at length. In the interest of time, discussion of the other budgets was deferred to the next meeting.

OTHER MATTERS

It was noted that the Memoranda of Agreement developed by the Inter-Agency Committee should be included in the report to the legislature.

MARCH 18, 1988 MEETING

The Inter-Agency Committee on Low-Level Radioactive Waste met on March 18, 1988, in Room 415 of the Albemarle Building. Chairman Ralph McAlister presided. Members present were Captain William Briner, John McAlister, Dr. Raymond Murray, Dr. Constance Kalbach Walker, Dr. James Watson, and Dayne Brown. Others in attendance were George F. Givens, Victoria Voight, Willie J. Lee, Ed Burt, Mike Boyd, Mike Jones and Steven Rose.

The purpose of the meeting was to continue work on the Committee's report to the Legislature, due April 1.

The Committee members made numerous suggestions to improve the readability, accuracy, and completeness of the report.

In regard to the seven-foot separation required between the bottom of the low-level radioactive waste unit and the groundwater, the Committee noted that any further consideration of this issue would be postponed. The Committee stated that every effort will be made to meet this requirement in siting a

facility. The Committee stated that no statutory changes will be requested unless this requirement proves to be a problem in the site search.

Committee members said that the computer-generated flowchart developed for the overall project had proved invaluable and voted unanimously to request that an updated flowchart be generated to reflect the progress of the Authority in meeting the milestones.

In regard to the recommendation for increased reimbursement of expenses of Authority members, Dr. Little was asked to determine the policy in effect for members of the Hazardous Waste Treatment Facility, the siting authority for a hazardous waste treatment facility.

There was considerable discussion of the budget recommendations submitted by the Authority, the Governor's Waste Management Board, the Radiation Protection Section (RPS), and the Department of Natural Resources and Community Development. It was concluded that a narrative statement and complete itemization for each agency budget should be included in the report. It was noted that the role of the IAC is not to pass judgment on individual requests, but to assemble the requests into a comprehensive package showing how each agency's requests fit into the overall project. The Committee stated that the report should note that the budget recommendations are tentative and based on what is now known.

The Committee discussed the need for regular and continued interaction between its constituent groups and reiterated that the report should contain a recommendation that the Committee be reauthorized. A motion was made that pending reauthorization, each constituent group go back and ask authorization for its representatives to continue to meet to work on mutual goals and problems. The motion passed unanimously.

The Committee engaged in a lengthy discussion of the budget requests from the different agencies. The Committee expressed some concern as to whether the request from the RPS was sufficient. Dayne Brown stated that he felt it was sufficient to do the job, but that there was no "fat" in it.

The committee stressed the need for each affected state agency to start right away to develop requests for the 1989-91 budget process.

OTHER MATTERS

The Committee was given a memorandum from the Governor's Waste Management Board's Public Information and Participation Committee, recommending that the IAC recommend to the General Assembly in the 1988 Short Session that the public notice provisions of Chapter 850 relating to the preemption process be changed to allow more time for the public to prepare.

It was noted that it was inappropriate for the IAC to act directly on a request from a committee of one of its constituent groups except in an emergency situation. The Committee considered the memorandum. Since any potential preemption proceeding could not possibly arise until well into the siting process (after late 1990), this could not be considered an emergency. Therefore, the Committee voted unanimously that Dr. Little convey to the Public Information and Participation Committee that its specific

recommendations should be conveyed to the Governor's Waste Management Board for possible action and referral to the IAC, stating that no one would suffer harm if consideration of this issue was postponed until the 1989 session of the General Assembly. The IAC asked that the Public Information and Participation Committee be reminded that the timeliness set forth in Chapter 850 are designed so that the state can meet federally-mandated deadlines. Finally, the Committee asked the Public Information and Participation Committee to clarify which public hearings would be adversely affected if action was delayed until early 1989.

MARCH 23, 1988 MEETING

The Inter-Agency Committee on Low-Level Radioactive Waste met March 23, 1988, at 3 p.m. in Room 113, Council Building, 701 Barbour Drive, Raleigh, N.C. Chairman Ralph McAlister presided. Members present were Captain William Briner, Dr. Raymond Murray, Dr. Constance Kalbach Walker, Dr. James Watson, and Dayne Brown. Others in attendance were Mary Kelleher Paris, Barbara Riley, Mike Jones, Victoria Voight, George F. Givens, Dr. Ed Burt, Tenney Deane, and Willie J. Lee.

The purpose of the meeting was to complete work on the Committee's report to the Legislature, due April 1. After review of the draft report the Committee determined that its work was nearly completed and directed staff to make any further necessary editorial changes.

The Committee members expressed appreciation to the Governor's Waste Management Board's staff on the work done on the completion of the report.

FINDINGS AND RECOMMENDATIONS

FINDINGS AND RECOMMENDATIONS

RECOMMENDATIONS TO THE GENERAL ASSEMBLY

The Inter-Agency Committee has looked thoroughly at Chapter 850 of the 1987 Session Laws. The Committee feels strongly that no statutory changes should be made unless absolutely necessary. The constituent groups of the Committee are committed to operating within the existing statutory language wherever possible. The Committee believes that certain changes are necessary and therefore makes the following recommendations to the General Assembly:

RECOMMENDATION 1: The IAC recommends a change in operator selection deadline from August 1, 1988 to January 31, 1989. [Reference: G.S. 104G-10(c)]

Justification: At this time the Authority contemplates letting one contract to cover the selection of potentially suitable sites for characterization, site characterization, design, construction and operation of the disposal facility. For this reason, the RFP for this contract and the proposal review will take longer than originally anticipated. While the Authority anticipates completing this task by December 1, 1988, because of the importance of the contract and the uncertainty as to how many proposals will be received, the Authority wishes to ensure sufficient time to fairly review the proposals. Therefore, the Authority is requesting that this deadline be moved back from August 1, 1988 to January 31, 1989. It is anticipated that because the contract will cover selection of potentially suitable sites for characterization, site characterization, design, construction, and operation, the Authority will be able to make up for this delay during the design selection and technology selection phases.

At this time, the Committee is not recommending any other change in dates. At a later time, other changes may be needed, but, if so, these will be presented as recommendations to subsequent sessions of the General Assembly. The Authority is committed to accomplishing all necessary tasks to meet the December 31, 1992 deadline.

RECOMMENDATION 2: The IAC recommends that the Authority be given actual fee-setting ability subject to the provisions contained in G.S. 104G-15(b). [Reference: G.S. 104G-6(a)(10) states that the Authority shall develop a proposed schedule of fees and other charges, including user charges, penalties and surcharges, applicable to users of the facility. This same statement is made in G.S. 104G-15(b)]

Justification: Pursuant to G.S. 104G-6(a)(1), a 6(a)(12), (6)(a)(16), and 15, the Authority is responsible for securing adequate financing for the construction and operation of the facility. Such revenue may be generated through loans or bonds. Towards that end, the General Assembly has given the Authority the power to give any evidences of indebtedness as may be required and the power to pledge revenues from the facility for the purposes of securing financing. G.S. 104G-6(a)(16). While the Authority has the power to pledge the revenue, as security for any indebtedness, it does not have the power to guarantee that the revenue (fees) will be sufficient to pay off the

indebtedness since it has the power only to propose fees, not to set them. This significantly inhibits the Authority's ability to obtain suitable financing. For this reason, the Authority is requesting actual fee-setting power and other changes as appropriate to ensure the Authority's ability to perform its tasks. Conforming changes should be made throughout G.S. 104G as necessary to accomplish this goal.

RECOMMENDATION 3: The IAC strongly recommends continuation of this Committee to maintain cognizance of the activities of the Authority and to facilitate cooperation among state agencies.

Justification: In reviewing G.S. 104G, the Committee noted a number of provisions that may warrant further study but which are not appropriate for consideration in the short session. These include, but are not limited to, the long-term care fund, the radioactive waste tax schedule, the gross receipts tax schedules, the arbitration provisions and the preemption procedures. For this reason, it recommends that the Committee be continued with a mandate to look at these and other issues as appropriate, to follow the progress and problems encountered by the Authority, and to be in a position to make appropriate recommendations not only to the General Assembly, but also to the appropriate state agencies, and to report its findings to the 1989 legislative session.

RECOMMENDATION 4: The IAC recommends changes to the fee-setting powers of the Department of Human Resources, to authorize the Department to establish and collect license application, issuance, amendment and renewal fees as necessary to support application review, licensing and enforcement for low-level radioactive waste facilities operated pursuant to G.S. 104G and for users of such facilities pursuant to site access licensing regulations mandated in G.S. 104E-10.3. [Reference: Existing Department of Human Resources fee-setting and collection authority is contained in G.S. 104E-9(8) and G.S. 104E-19.]

Justification: The adoption of G.S. 104G and related amendments to G.S. 104E in 1987 required the Department of Human Resources to protect the public, to protect the environment, enforce complex statutory requirements, and develop and enforce detailed regulations in its licensing of a low-level radioactive waste disposal facility by January 1, 1993. The adoption in 1987 of G.S. 104E-10.3 and related provisions mandates the development and implementation of a site access licensing program for users of the facilities operated pursuant to G.S. 104G. While making no appropriation to support these activities (which will be of significant expense), the General Assembly did at the same time establish the policy that all costs must be borne by the users of the required low-level radioactive waste disposal facility. The above recommended changes in G.S. 104E are needed to permit the Department of Human Resources (1) to implement this legislated policy and (2) to ensure that adequate funds will be available for the Department of Human Resources to discharge its related responsibilities at the expense of appropriate low-level radioactive waste generators.

RECOMMENDATION 5: The IAC recommends, as will be identified in the Governor's budget, that the General Assembly provide adequate funding

so that the Authority and the other affected State agencies can perform in a timely manner the tasks set forth in Chapter 850.

Justification: Adequate and timely funding is necessary if the Authority is to meet federally mandated deadlines for establishment of a low-level radioactive waste disposal facility. The IAC is reviewing the budgets under development by the Authority and each of the affected state agencies for the purpose of ensuring that all tasks have been identified and that there are no gaps or overlaps in funding requests. It should be understood that at this time all budget requests have not been finalized, as each are under consideration by the appropriate departments. The IAC plans to compile updated budget information before the beginning of the 1988 Short Session.

ADDITIONAL FINDINGS

The Inter-Agency Committee has made other findings as follows:

FINDING 1: The Inter-Agency Committee recommends that it continue to review and evaluate procedures in this and other jurisdictions relating to dispute resolution in connection with siting and management of low-level radioactive waste disposal facilities, including mediation, negotiation, and arbitration. The IAC further recommends that the results of this review and evaluation be utilized by the Board in its rule-making. [Reference: Section 23 of Chapter 850]

Justification: G.S. 104G-21 provides for negotiation and arbitration between local governments and the Authority. The Governor's Waste Management Board may appoint a mediator, if necessary, and the Board is also mandated to serve as the arbitrator of any issue submitted for arbitration. The Board has begun development of rules to implement this statute. At this time the Board is proceeding with the assumption that the existing statute provides the necessary authority and guidance and will make every effort to operate within this framework. The Low-Level Radioactive Waste Management Authority will not reach the point at which negotiation, arbitration and mediation rules would be required until sometime in 1989. Therefore, the Board wishes to take an unhurried and deliberate approach, with public participation, to the rule-making process. The Inter-Agency Committee concurs with this approach.

FINDING 2: The Inter-Agency Committee recommends that it continue to review and evaluate procedures relating to public participation in connection with siting and management of low-level radioactive waste disposal facilities.

Justification: The IAC believes that public participation procedures should be developed very carefully and expeditiously. The credibility of the siting and waste management processes will rest on the soundness of the public participation procedures.

FINDING 3: In regard to the procedures for possible preemption for local ordinances, the IAC is concerned about the apparent inconsistency between the grounds for petition for

preemption and the result of a preemption proceeding.
[Reference: G.S. 104E-6.2]

Justification: Under the existing statute, a preemption proceeding would be triggered by a provision (or provisions) of a local ordinance, but the outcome of the proceeding would be to approve or disapprove the establishment and operation of a waste management facility. The Board has informed the IAC that it would appear that the outcome would more logically be the validation or invalidation of the relevant provision(s) of the local ordinance. However, any possible preemption proceeding would not be ripe for consideration for several years, the IAC is not making a recommendation for change in the statute at this time.

FINDING 4: The IAC recommends that the Authority seek to update the flow chart for the overall project of siting and constructing the low-level radioactive waste disposal facility.

Justification: Since the establishment of the Authority in September 1987, a number of milestones have been reached earlier than mandated and in addition, the Authority is now in a better position to estimate the timing of other tasks. The flow chart has proven to be a valuable planning tool, and it should be updated periodically.

FINDING 5: The IAC recommends that the Authority and each of the other affected bodies develop accounting procedures to capture the costs of activities which must be recovered from waste generation.

Justification: G.S. 104G-15 states the intent of the General Assembly that the cost of all activities of the Authority and the cost of all activities of State regulatory agencies which result from activities of the Authority be borne by waste generators.

Therefore, it is important that all proposed and actual expenditures be carefully documented and justified.

MEMORANDA OF AGREEMENT

Through the efforts of the IAC Memoranda of Agreement have been developed between the Authority and the several state agencies which are involved in the implementation of the Low-Level Radioactive Waste Management Authority Act. [See Appendix]

The purpose of these agreements is to establish policies, responsibilities, and procedures for the coordination of the activities of the bodies responsible for the management of low-level radioactive waste in North Carolina. The primary objective of the agreement is to establish among the five bodies an agreement as to administrative procedures to ensure timely establishment of a low-level radioactive waste disposal facility while avoiding a conflict of interest or the appearance of a conflict of interest. Specifically, a major objective of the agreement is to avoid impairment of the exercise of regulatory authority by a state agency, board, or commission with respect to any activity of the Authority.

ESTIMATED RESOURCES NEEDED FOR FY 1988-89

LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT AUTHORITY

General Statutes 104G requires the Authority to conduct a siting study, perform site characterization on two or three sites, select a disposal technology and prepare a license application. After the license application has been approved the Authority is responsible for the design, engineering, construction and operation of this facility for approximately 20 years. The Authority currently plans to select a contractor to conduct all of the above mentioned work, and the Authority will provide oversight, approval and responsibility for all the contractor's work. However, considering the sensitivities of the work, it will be a complicated and involved program.

It is estimated that funding will be needed to contract for these services, to provide additional staff for the Authority to oversee the project and implement the results of the contract and to begin implementation of the project.

GOVERNOR'S WASTE MANAGEMENT BOARD
DEPARTMENT OF HUMAN RESOURCES

Program Purpose: To educate the citizens of North Carolina about the use and proper management of radioactive materials, to improve the awareness about the need for facilities to properly manage low-level radioactive waste, and to inform citizens about the ability of such facilities to operate properly. The Governor's Waste Management Board has the primary responsibility for public education on waste management in North Carolina (G.S. 143B 216.13).

Justification: The problem of waste management is characterized by misunderstanding of the comparative risks and a lack of general knowledge about the use and proper management of hazardous and radioactive materials. Public education efforts on waste issues have not kept pace with technical and regulatory developments. Experts in the field agree that comprehensive public education programs are needed to improve public awareness about the need for facilities to properly manage waste and about the ability of such facilities to operate safely.

In 1984, the Board received a \$50,000 grant from the North Carolina Board of Science and Technology for an educational project on hazardous waste. The grant funded the extremely successful Project REACH program which produced eight fact packets, two slide tape shows, a government directory, and numerous resource lists on hazardous waste management. Project REACH also included an aggressive outreach program, expanded the Board's library resources, and sponsored two workshops for teachers on hazardous materials.

At this time, there is an urgent need for a similar educational project on low-level radioactive waste. North Carolina is a member of the eight state Southeast Compact for low-level radioactive waste management and has been designated as the next host state for a regional disposal facility. An educational program similar to Project REACH is needed to inform the public about the complicated issues associated with low-level radioactive waste management.

Currently, the Board's budget does not include funds for an extensive educational program on low-level radioactive waste. Through existing funds, the Board's staff and committees have prepared several publications on low-level radioactive waste. However, the development of additional educational materials and an outreach program will be extremely important in helping the state meet its responsibilities for managing low-level radioactive waste. It is anticipated that additional funds may be required to provide such a program.

RADIATION PROTECTION SECTION
DIVISION OF FACILITY SERVICES
DEPARTMENT OF HUMAN RESOURCES

The Radiation Protection Section has responsibilities relative to the siting, design, and licensing of a low-level radioactive waste disposal facility which must be established by the North Carolina Low-Level Radioactive Waste Management Authority by January 1, 1993 under provisions of G.S. 104G. Under provisions of G.S. 104E, the Section is ultimately responsible for approval of disposal site, disposal technology, facility operator and application for radioactive material licensing. Once a license is issued, the Section will be responsible for ongoing regulation, inspection, enforcement and environmental monitoring of the disposal facility over its expected 20 year operating life, through its ultimate closure, and into the required post-closure and institutional control phases. It is anticipated that additional staff and funding for limited contractual services will be required to meet these mandates.

GEOLOGICAL SURVEY SECTION
DIVISION OF LAND RESOURCES
DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

The Division of Land Resources must provide the necessary level of expertise in reviewing characterization studies, facility design, construction, and operation of a low-level radioactive waste disposal facility and to curate (receive, catalog, process, and shelve) geotechnical samples and other records. Specifically, the Division of Land Resources must provide geologic and geotechnical expertise to assist the Radiation Protection Section in reviewing characterization, design, construction, and operation of a low-level radioactive waste disposal facility and assist the North Carolina Low-Level Radioactive Waste Management Authority by providing manpower to curate (receive, catalog, process, and shelve) geotechnical samples and other records related to the establishment of a low-level radioactive waste facility.

In order to meet these mandates, it is anticipated that additional funding may be required for staff, expansion of laboratory space, expansion of storage space for geotechnical samples and records and space renovations.

GROUNDWATER SECTION; AIR QUALITY SECTION; WATER QUALITY SECTION
DIVISION OF ENVIRONMENTAL MANAGEMENT
DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

The North Carolina Low-Level Radioactive Waste Management Authority Act of 1987 (NCGS 104G-7 and 104E-26) requires that chosen sites comply with existing State environmental laws and regulations. Additional staff may be required to ensure compliance with these statutes; to initiate, organize and anticipate air quality review needs for 1989 and beyond; and to deal with the multi-disciplinary issues of Water Quality.

APPENDIX

MEMORANDA OF AGREEMENT

TITLE: COORDINATION OF THE NORTH CAROLINA LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT AUTHORITY, THE GOVERNOR'S WASTE MANAGEMENT BOARD (GWMB), THE RADIATION PROTECTION COMMISSION (RPC), THE RADIATION PROTECTION SECTION OF THE DIVISION OF FACILITIES SERVICES OF THE DEPARTMENT OF HUMAN RESOURCES, AND THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT.

POLICY: It is the policy of the State of North Carolina to provide for the timely establishment of adequate facilities for the comprehensive management and permanent disposal of low-level radioactive waste. Such facilities are to be properly regulated to protect public health and the environment, in accordance with regulations of the U.S. Nuclear Regulatory Commission and the rules adopted by the North Carolina Radiation Protection Commission. Further, public input and participation, and in particular the reasonable concerns and reasonable decisions of local authorities, should be considered in the siting, licensing, and operation of low-level radioactive waste facilities.

To implement these policies the following bodies have been established:

North Carolina Low-Level Radioactive Waste Management Authority (siting)

Governor's Waste Management Board (planning, policy, public participation, limited preemption of local ordinances and privilege taxes)

Radiation Protection Section of Department of Human Resources (regulation and licensing)

Radiation Protection Commission (rule-making)

Inter-Agency Committee on Low-Level Radioactive Waste (preparation of recommendations to the General Assembly)

In addition, the Department of Natural Resources and Community Development through appropriate Divisions, participates in the review of certain aspects of applications for low-level radioactive waste management facilities. The North Carolina Low-Level Radioactive Waste Management Authority is now beginning its search for a site for a low-level radioactive waste disposal facility. NCGS 104G-9(h) provides that "The Authority may

request information and assistance from any State agency which has data or expertise which would assist the Authority in the identification and characterization of sites for a low-level radioactive waste disposal facility, provided that no agency which has the authority to issue any license or permit required for the construction or operation of the facility shall participate in the site selection process in any way that would result in an actual or apparent conflict of interest." The guidelines in this document define clearly to what extent the above bodies may interact with the Authority and provide assistance to the Authority without compromising the specific roles of these bodies.

PARTIES: These agreements are between the North Carolina Low-Level Radioactive Waste Management Authority, and (1) the Radiation Protection Commission, (2) the Department of Human Resources, (3) the Department of Natural Resources and Community Development, through the appropriate Division Directors, (4) the Governor's Waste Management Board, and (5) the Inter-Agency Committee on Low-Level Radioactive Waste.

PURPOSE: The purpose of these agreements is to establish policies, responsibilities, and procedures for the coordination of the activities of the bodies responsible for the management of low-level radioactive waste in North Carolina. The primary objective of the agreement is to establish among the five bodies an agreement as to administrative procedures to ensure timely establishment of a low-level radioactive waste disposal facility while avoiding a conflict of interest or the appearance of a conflict of interest. Specifically, a major objective of the agreement is to avoid impairment of the exercise of regulatory authority by a state agency, board, or commission with respect to any activity of the Authority. This memorandum shall in no way be construed to alter in any legally binding fashion the statutory powers and responsibilities of the parties.

AUTHORITIES: The Radiation Protection Section is administered by the Department of Human Resources under the authority of NCGS 104E. The Radiation Protection Commission operates under the authority of NCGS 104E. The Governor's Waste Management Board operates under the authority of NCGS 143B. The North Carolina Low-Level Radioactive Waste Management Authority operates under the authority of NCGS 104G. The Department of Natural Resources and Community Development operates under the authority of NCGS 113 and 143B-276. The Inter-Agency Committee on Low-Level Radioactive Waste operates under the authority of Section 23, Chapter 85 of the 1987 Session Laws of the 1987 General Assembly.

AGREEMENTS:

The Low-Level Radioactive Waste Management Authority and the Interagency Committee understand and agree as follows:

1. The Interagency Committee will meet periodically for exchange of information among organizations and for the development of solutions to problems.
2. The Chairman of the Interagency Committee will provide opportunity for the Chairman and Executive Director of the Low-Level Radioactive Waste Management Authority to review in a timely manner the draft recommendations of the Interagency Committee to the General Assembly.

AGREEMENTS:

The Low-Level Radioactive Waste Management Authority and the Governor's Waste Management Board understand and agree as follows:

1. Each of the committees will appoint a liaison to its counterpart, who will attend meetings and communicate information and suggestions. An alternate will be designated. For example, the Technical Committee of the Low-Level Radioactive Waste Management Authority will designate one of its members to serve as liaison to the Technical Committee of the Governor's Waste Management Board and vice versa.
2. The staff and membership of the Governor's Waste Management Board will provide information on request on available professional resources of North Carolina state and local government, will advise of limits of interaction that would constitute conflict of interest, and will assist the general coordination in the interest of efficiency and effectiveness.
3. The Governor's Waste Management Board will continue to develop general public information material (booklets, videotapes, etc.) on low-level radioactive waste, with a opportunity for timely review and comment by the Low-Level Radioactive Waste Management Authority and the Radiation Protection Section of the Department of Human Resources, and distribute the material to local committees, news media, educators, and other interested persons, informing the Low-Level Radioactive Waste Management Authority of the distribution of such information.
4. The Low-Level Radioactive Waste Management Authority will provide the Governor's Waste Management Board opportunity to review and comment in a timely manner on the Low-Level Radioactive Waste Management Authority's policy statements, plans, procedures and project-related public information materials and make suggestions for improvements.

5. Any assistance provided by the Board to the Authority shall avoid impairment of the potential exercise of review authority by the Board with regard to activities of the Authority.

AGREEMENTS:

The Low-Level Radioactive Waste Management Authority and the Department of Human Resources understand and agree as follows:

1. The Low-Level Radioactive Waste Management Authority will afford the Radiation Protection Section opportunity to review and comment in a timely manner on its plans; requests for proposals; proposed criteria, rules and procedures; and other proposed actions which may relate to the regulatory jurisdiction and requirements of the Radiation Protection Section and compliance with the rules adopted by the the Radiation Protection Commission, to the extent that such review and comment will not result in a conflict of interest relative to the Section's responsibility for ultimate issuance of the license for the disposal facility.
2. The Radiation Protection Section will advise the Low-Level Radioactive Waste Management Authority in the event that actions taken or contemplated by the Authority appears, in the current state of the art, to the Section to have potential impact on future licensing of a low-level radioactive waste disposal facility, to the extent that such advice will not result in a conflict of interest relative to the Section's responsibility for ultimate issuance of the license for the disposal facility.
3. The Low-Level Radioactive Waste Management Authority will strive to ensure that the plans, criteria, rules, procedures and low-level radioactive waste disposal facility of the Authority will satisfy the applicable provisions of GS 104E and GS 104G and rules promulgated by the Radiation Protection Commission.
4. The Radiation Protection Section will provide written interpretations of specific provisions of the rules promulgated by the Radiation Protection Commission upon written request of the Authority and, within the limitations of available staff and funds, will assign appropriate personnel to be available to the Technical Committee of the Low-Level Radioactive Waste Management Authority for response to questions on matters of fact and procedures in the areas of licensing and regulation.

5. Any assistance provided by the Department to the Authority shall avoid impairment of the exercise of review and regulatory authority by the Department with regard to activities of the Authority.

AGREEMENTS:

The Low-Level Radioactive Waste Management Authority and the Radiation Protection Commission understand and agree as follows:

1. The Radiation Protection Commission will strive to discharge its low-level radioactive waste management rule-making responsibilities in a timely manner consistent with the deadlines imposed in GS 104G for siting, licensing and operation of a low-level radioactive waste disposal facility.
2. The Low-Level Radioactive Waste Management Authority will strive to ensure its procedures, criteria, rules and actions are consistent, as required by provisions of GS 104E and GS 104G with the rules promulgated by the Radiation Protection Commission.
3. Any assistance provided by the Commission to the Authority shall avoid impairment of the exercise of review authority by the Commission with regard to activities of the Authority.

AGREEMENTS:

The Low-Level Radioactive Waste Management Authority and the Department of Natural Resources and Community Development through the appropriate Division Directors understand and agree as follows:

1. A staff member or members of appropriate Divisions will serve as resource persons for the Technical Committee of the Low-Level Radioactive Waste Management Authority, responding to questions on matters of practice and procedure in their respective areas of expertise. The Secretary will designate a contact person to assure timely response by the appropriate division(s) to requests from the Authority or its agent.
2. Appropriate Divisions will provide to the Authority or its agents information relevant to available state and local data and to the appropriate content of procurement and contract documents in the areas of geography, geology, hydrology, meteorology, and related subjects.
3. Appropriate Divisions will be given the opportunity to review and comment in a timely manner on any Low-Level Radioactive Waste Management Authority programs, plans, procedures, and criteria.

4. The Division of Land Resources will advise the staff of the Low-Level Radioactive Waste Management Authority in the acquisition and use of appropriate computer hardware and software for purpose of scheduling operations. Until the Low-Level Radioactive Waste Management Authority has had reasonable time to acquire its own equipment, the Division of Land Resources will assist the Low-Level Radioactive Waste Management Authority with scheduling operations, but only to the extent feasible within the priorities of the Division of Land Resources.
5. Reimbursement of the appropriate Divisions of the Department of Natural Resources and Community Development on an actual cost basis for assistance will be provided by the Low-Level Radioactive Waste Management Authority.
6. Any assistance provided by the Department to the Authority shall avoid impairment of the exercise of review and regulatory authority by the Department with regard to activities of the Authority.

